

FEDERAL COMMUNICATIONS COMMISSION

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 Before the  
 Federal Communications Commission  
 Washington, DC 20554

In the Matter of	)	
	)	
Request for Review of the	)	
Decision of the	)	
Universal Service Administrator by	)	
	)	
Educational Service Unit #6	)	File No. SLD- 130998
Milford, Nebraska	)	
	)	
Federal-State Joint Board on	)	CC Docket No. <u>96-45</u>
Universal Service	)	
	)	
Changes to the Board of Directors of the	)	CC Docket No. 97-21
National Exchange Carrier Association, Inc.	)	

## ORDER

Adopted: September 8, 2000

Released: September 11, 2000

By the Accounting Policy Division, Common Carrier Bureau:

1. The Accounting Policy Division has under consideration a Letter of Appeal filed by Educational Service Unit #6 (Educational Service), Milford, Nebraska, on April 7, 2000.<sup>1</sup> In the Letter of Appeal, Educational Service seeks review of a funding commitment decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (USAC or Administrator) on August 3, 1999.<sup>2</sup> Because Educational Service failed to appeal SLD's funding decision within 30 days of the Funding Commitment Decision Letter, it also requests a waiver of the 30-day appeal period. For the reasons set forth below, we deny Educational Service's appeal and its request for waiver of the 30-day time limit for filing appeals.

2. Under section 54.720(b) of the Commission's rules, an appeal must be filed within 30 days of the issuance of the decision as to which review is sought.<sup>3</sup> Documents are considered to be filed with the Commission or the SLD only upon receipt.<sup>4</sup> As noted, the Funding

<sup>1</sup> Letter of Appeal from Larry M. Lindquist, Educational Service Unit #6, to Federal Communications Commission, filed April 7, 2000 (Letter of Appeal).

<sup>2</sup> Letter from Schools and Libraries Division, Universal Service Administrative Company, to Larry M. Lindquist, Educational Service Unit #6, dated August 3, 1999 (Funding Commitment Decision Letter).

<sup>3</sup> 47 C.F.R. § 54.720(b).

<sup>4</sup> 47 C.F.R. § 1.7.

Commitment Decision Letter was issued on August 3, 1999. Educational Service filed appeals of the funding decision with SLD on October 7, 1999 and October 18, 1999.<sup>5</sup> SLD dismissed the appeals as untimely.<sup>6</sup> Upon review of the record, we find that, because Educational Service failed to appeal the Funding Commitment Decision Letter within the requisite 30-day appeal period, Educational Service's appeals to SLD were correctly denied as untimely.

3. To the extent that Educational Service is requesting that we waive the 30-day deadline established in section 54.720(b) of the Commission's rules,<sup>7</sup> we deny that request. The Commission may waive any provision of its rules, but a request for waiver must be supported by a showing of good cause.<sup>8</sup> In light of the thousands of applications that the SLD must review and process each funding year, we believe it is administratively appropriate for the SLD to require applicants to adhere strictly to its filing deadlines. Accordingly, we believe that, absent special circumstances warranting a deviation from the general rule, waivers of these deadlines should not be granted. Educational Service has not shown cause for the untimely filing of its initial appeals beyond the fact that it did not notice that one of its requests for discounted service, Funding Request Number 195248, was not fully funded. Educational Service bears the burden of carefully reviewing items sent to and received from SLD for errors. Accordingly, we conclude that Educational Service has not presented the special circumstances necessary to warrant relief from the filing deadline. We therefore deny Educational Service's request to waive section 54.720(b).

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<sup>5</sup> Letter from Larry M. Lindquist, Educational Service Unit #6, to Schools and Libraries Division, Universal Service Administrative Co., filed October 7, 1999; Letter from Larry M. Lindquist, Educational Service Unit #6, to Schools and Libraries Division, Universal Service Administrative Co., filed October 18, 1999.

<sup>6</sup> Letter from Schools and Libraries Division, Universal Service Administrative Co., to Larry M. Lindquist, Educational Service Unit #6, dated October 14, 1999; Letter from Schools and Libraries Division, Universal Service Administrative Co., to Larry M. Lindquist, Educational Service Unit #6, dated March 23, 2000 (Administrator's Decisions on Appeal).

<sup>7</sup> See 47 C.F.R. § 54.720(b).

<sup>8</sup> See e.g. *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) ("Waiver is [] appropriate if special circumstances warrant a deviation from the general rule, and such deviation would better serve the public interest than strict adherence to the general rule."); 47 C.F.R. § 1.3.

4. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the Letter of Appeal filed on April 7, 2000, by Educational Service Unit #6, Milford, Nebraska, and the request to waive the 30-day time limit in which to file appeals ARE DENIED.

FEDERAL COMMUNICATIONS COMMISSION



Sharon L. Webber  
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Common Carrier Bureau